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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,423	01/12/2001	Paul Green	PGR-100	2318

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EXAMINER

WATSON, ROBERT C

ART UNIT	PAPER NUMBER
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3723

DATE MAILED: 05/21/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/759,423

Applicant(s)

GREEN, PAUL

Examiner

Robert C. Watson

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/9/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 21-37 is/are pending in the application.
- 4a) Of the above claim(s) 23-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 21-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Newly submitted claims 23-37 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-12 and 21-22, drawn to a jack, classified in class 254, subclass 420.
- II. Claims 23-37, drawn to a method of mounting a jack on a trailer, classified in class 29, subclass 428.

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the claimed jack can be used in a process whereby the jack is mounted on a scaffold or a piece of furniture rather than a trailer for the purpose of elevating the scaffold or the piece of furniture. A jack that is "mountable to an A-frame coupler of a trailer" is also capable of being mountable to an infinite variety of objects.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 23-37 are withdrawn from consideration

as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sweetland in view of Linton et al.

Sweetland shows a jack removably coupled to an A-frame of a trailer.

Linton et al shows a vehicle jack selectively mountable on a vehicle. The mounting arrangement comprises a first piece 38 mounted to the vehicle and a second piece 32 mounted to the vehicle jack. The second piece can transition between a plurality of vertical positions relative to the first piece by virtue of the plural vertically spaced apertures 36 on the second piece. Pins 42 provide a means for releasably securing the second piece selectively relative to the first piece.

To employ in Sweetland a first piece mounted to the vehicle and a second piece mounted to the vehicle jack would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Linton. One of ordinary skill in the art would have been motivated to do this in order to enable the A-frame mounted jack of Sweetland to be able to transition between a plurality of vertical positions such that the jack will be initially positioned at a correct vertical position relative to the ground before jacking is begun.

Claims 3-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sweetland in view of Linton et al as above applied taken with Ebey.

The Sweetland in view of Linton et al mount arrangement as above applied lacks a means of selectively pivoting the jack to a horizontal or stored position.

Ebey teaches that by virtue of providing mating apertures and a locking pin a jack can be selectively pivotable between a horizontal position and a vertical position.

To provide addition mating holes in the first or second mounting pieces of Linton et al so as to enable the vehicle jack to be pivoted between a horizontal and a vertical position would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Ebey. One of ordinary skill in the art would have been motivated to do this in order to enable the jack to be conveniently pivoted from a use to a stored position. Ebey teaches that the mounts may be removeably mounted while Linton et al teaches that the mounts may be permanently mounted. It is no more than an obvious matter of choice to select either of these mounting arrangements absent a showing of criticality.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert C. Watson whose telephone number is 703 308-1747. The examiner can normally be reached on Mon. - Thurs. , 5:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail III can be reached on 703 308-2687. The fax phone numbers for the organization where this application or proceeding is assigned are 703


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305-3579 for regular communications and 703 305-9835 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1148.



ROBERT C. WATSON
PRIMARY EXAMINER

rcw
May 20, 2003